IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1715 of 2005

Between:

Sri S.T.Shabbir Ahmed, s/o S.T.Allahbaksh, Occ: Business,
R/o. 521/243, Kothapet, Kurnool.

..... PETITIONER

AND

1 The Tax Recovery Officer, Office of Additional Commissioner of Income Tax, Range 10, Buddha Bhavan, M.G.Road, Secunderabad.
2 The Assistant Commissioner of Income Tax, Hyderabad.
3 Y.Balireddy alias Y.B.C.Reddy, s/o Y.Ananthaiah Reddy,
R/o 6-1-303/301, Padmaraonagar,Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of writ of mandamus, setting aside auction conducted in pursuance of ITA No.71/ANTP/CIT(A)-II/96/97 dated 28-10-2004 in respect of land admeasuring Ac.3.00 in Sy.No.92 Dhinadevarapadu Village, Kurnool Mandal, Kurnool District, declaring the same and the action of the 1st respondent, as illegal, void, arbitrary and against the principles of natural justice, in the interest of justice and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CHETLURU SREENIVAS

Standing Counsel for the Respondent Nos.1 and 2: MR.B.NARASIMHA SARMA

The Court at the admission stage made the following:

ORAL ORDER: (per GB.J.)

The Writ Petition is filed seeking a Writ of Mandamus setting aside the auction conducted in pursuance of ITA.No.71/ANTP/CIT(A)-II/96/97, dated 28.10.2004 in respect of three acres of land situated in Survey No.2, Dhinadevarapadu village, Kurnool Mandal, Kurnool District, declaring the same and the action of the 1st respondent as illegal, void, arbitrary and against the principles of natural justice.

2. The petitioner, according to the averments made in the affidavit filed in support of the petition, had purchased the property under an agreement of sale deed dated 25.8.2002 from the earlier owner. It is the case of the petitioner that having come to know that the property was being put to sale by the income tax authorities on 28.10.2004, he filed a petition on 27.10.2004, but without disposing of the said petition, the sale was conducted by the authorities and therefore the said sale was illegal and invalid.

3. The learned Standing Counsel for the Income Tax now submits that the petition filed by the petitioner on 27.10.2004 was disposed of on the very next day, i.e., on 28.10.2004, and the sale was postponed to 10.11.2004, and ultimately the sale was knocked down in favour of one Smt.Laxmi Devi and the Sub-Registrar was also informed of the same and the Sale Certificate was also issued to the said auction purchaser.

4. In view of the subsequent events and taking into consideration the petition filed by the petitioner was already disposed of on the next day i.e., on 28.10.2004, we do not find any ground to admit the Writ Petition.

5. Accordingly the Writ Petition is dismissed. However, we leave it open to the petitioner to seek appropriate remedies as available to him under law. No costs.

(G.BIKSHAPATHY, J.)

(P.S.NARAYANA, J.)

SSR

To

1. The Tax Recovery Officer, Office of Additional Commissioner of Income Tax, Range 10, Buddha Bhavan, M.G.Road, Secunderabad.
2 The Assistant Commissioner of Income Tax, Hyderabad.

3 2 CD copies.